# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/737,432 | 12/15/2000 | Ching-Jye Chang | AUS9-2000-0701-US1 | 1904 |

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| 7590 03/29/2005 | | EXAMINER |
| Joseph R. Burwell | | VU, THONG H |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2142 | |

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DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/737,432 | CHANG ET AL. |
| | Examiner | Art Unit | |
| | Thong H Vu | 2142 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>12 November 2004</u>.

2a)☐ This action is **FINAL.**    2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-4, 7-10 and 13-15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4, 7-10 and 13-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.      Claims 1-4,7-10,13-15 are pending.

### Response to Arguments

2.      Applicant's arguments with respect to 35 U.S.C. §102 and 103 Rejections, claims

1,7,13 have been considered but are moot in view of the new ground(s) of rejection.

3.      Applicant's arguments filed 11/12/04 have been fully considered but they are not

persuasive to overcome the Double Patenting Rejection.

### Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4.      Claims 1,7,13 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement.  The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention (i.e.: selecting means for selecting the logical

route, wherein the logical route does not include resources for which exclusive access

has previously been granted. This matter is not in described in specification).

5.      Claims 1,7,13 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. It does not clear that the logical route has or has not

access to the previous resources or new resources (i.e.: selecting means for selecting

the logical route, wherein the logical route does not include resources for which

exclusive access has previously been granted).

### Double Patenting

6.      The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees.  See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be

used to overcome an actual or provisional rejection based on a nonstatutory double

patenting ground provided the conflicting application or patent is shown to be commonly

owned with this application.  See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a

terminal disclaimer.  A terminal disclaimer signed by the assignee must fully comply with

37 CFR 3.73(b).

Claims 1-4,7-10,13-15 are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1-33

of copending Application No.09/737,725.  Although the conflicting claims are not

identical, they are not patentably distinct from each other because.

(*Application #725, claim 12*). An apparatus for managing devices within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for a requested on action at a requested target device within the distributed data processing system, wherein completion of the requested action depends upon communication protocol operations on each of a set of multiple devices along a logical route through the distributed data processing system to the requested target device;

identifying means for identifying a set of multiple supported protocols that are common to the set of multiple devices along the logical route;

determining means f or determining a set of multiple allowable supported protocols in the set of multiple supported protocols based on requested action wherein the set of multiple allowable supported protocols is a subset of the set of multiple supported protocols, and wherein each protocol in the set of multiple allowable supported protocols is usable to complete the requested action;

first selecting means for selecting, in response to a determination of the set of allowable supported protocols, an allowable supported protocol for the requested action from the set of multiple allowable supported protocols; and

granting means for granting the request for the requested action in accordance with the selected allowable supported protocol.

(*Application #432, claim 7*). An apparatus for managing resources within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within the distributed data processing system, wherein completion of the action depends upon operations of a set of resources along a logical route through the distributed data processing system;

deriving means for deriving a set of logical routes from a network topology mapping, wherein each logical route is a series of endpoints that comprise an endpoint-to-endpoint route for completing the requested action;

selecting means for selecting the logical route, wherein the logical route does not include resources for which exclusive access has previously been granted;

securing means for securing (i.e. allowable), in response to a determination that completion of the action requires that the set of resources operate at high levels of performance, operating conditions within the distributed data processing system for high levels of performance by the set of resources and the target resource (i.e.: a set of multiple allowable support protocols); and

granting means for granting, in response to securing high level performance conditions, the request for the action.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.      Claims 1-4,7-10,13-15 are rejected under 35 U.S.C. § 103 as being unpatentable over Dowd et al [Dowd 6,141,755] in view of Nessett et al [Nessett, 5,968,176].

8.      As per claim 7, Dowd discloses an apparatus for managing resources within a distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within the distributed data processing system, wherein completion of the action depends upon operations of a set of resources along a logical route through the distributed data processing system [Dowd, , col 5 line 65-col 2 line 24, col 8 lines 44-col 9 line 2];

securing means for securing, in response to a determination that completion of the action requires that the set of resources operate at high levels of performance (i.e.:

high speed network), operating conditions within the distributed data processing system

for high levels of performance by the set of resources and the target resource [Dowd,

Firewall validates the digital bit stream as being part of an approved data flow, col 6

lines 25-35]; and

granting means for granting, in response to securing high level performance

conditions, the request for the action [Dowd, access has been granted, col 4 lines 8-26;

validate PDU as part of an approved data flow, col 6 lines 25-35; conditionally

approved, col 6 lines 36-59; col 7 lines 42-62; col 8 lines 15-col 9 lines 2, 3-19].

However Dowd does not explicitly detail

deriving means for deriving a set of logical routes from a network topology

mapping, wherein each logical route is a series of endpoints that comprise an endpoint-

to-endpoint route for completing the requested action;

selecting means for selecting the logical route, wherein the logical route does not

include resources for which exclusive access has previously been granted [i.e.: select a

new route];

Nessett discloses security network includes the topology database [Nessett, col 7

lines 12-35], VLAN or a set of logical routes [Nessett, col 11 lines 45-62], end to end

protection [Nessett, col 14 lines 19-30]; retrieve or select the new rules which translated

to configuration data for the active nodes or new route [Nessett, retrieve the new

security policy rules, col 21 lines 10-33; the rule is translated to configuration data, col

19 lines 34-43]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the secure policy rules, topology database over VLAN as taught by Nessett into the Dowd's apparatus in order to utilize the security process of network firewall. Doing so would provide the resources available to perform filtering naturally as well as network grows.

9.      As per claim 8, Dowd-Nessett disclose rejecting a subsequent request for an action that requires operations on one of the resources in the set of resources as inherent feature of firewall allow or disallow the connection based on the evaluation process [Dowd, col 8 lines 44-col 9 line 2].

10.     As per claim 9, Dowd-Nessett disclose reserving exclusive access to the set of resources and the target resource [Dowd, This path is formed by initiating signaling messages that pass between switches on specific VPI, VCI pairs that are reserved solely for signaling, col 2 line 62-col3 line 6]

11.     As per claim 10, Dowd-Nessett disclose generating a restricted session identifier (i.e.: link level identifier) [Dowd, link level identifier with a list of approved flows, col 4 line 54-col 5 line 7; col 6 lines 36-59];

associating the restricted session identifier with the granted action [Dowd, the route authentication process examines the path used to set up the connection and

determines if this path is consistent with the participants associated with the connection,
col 4 lines 8-26];

transmitting the restricted session identifier to gateways responsible for the set of
resources, wherein gateways along the route permit exclusive access to the set of
resources in accordance with the restricted session identifier associated with an action
[Dowd, the firewall controller 28 determines whether an arriving digital bit stream PDU is
data, control information, or a signaling message by comparing the link level information
associated with the arriving digital bit stream PDU to an entry in the firewall database,
col 6 lines 60-65].


12.     Claims 1-4 and 13-15 contain the similar limitations set forth of apparatus claims
7-10. Therefore, claims 1-4,13-15 are rejected for the similar rationale set forth in claims
7-10.


13.     Claims 1-4,7-10,13-15 are rejected under 35 U.S.C. § 103 as being unpatentable
over Holender [6,141,755] in view of Raab et al [Raab, 5,751,967].

14.     As per claim 7, Holender discloses an apparatus for managing resources within a
distributed data processing system, the apparatus comprising:

receiving means for receiving a request for an action at a target resource within
the distributed data processing system, wherein completion of the action depends upon
operations of a set of resources along a logical route through the distributed data

processing system [Holender, set of virtual paths, col 13 lines 1-60; set of virtual links,

col 37 lines 49-57; col 42 lines 59-col 43 line 5];

deriving means for deriving a set of logical routes from a network topology

mapping, wherein each logical route is a series of endpoints that comprise an endpoint-

to-endpoint route for completing the requested action [Holender, the topology of each

mapped VP, col 37 lines 1-32; end-to-end connection, col 10 lines 27-43];


securing means for securing, in response to a determination that completion of

the action requires that the set of resources operate at high levels of, operating

conditions within the distributed data processing system for high levels of performance

by the set of resources and the target resource [Holender, virtual networks providing

certain levels of resources and security, col 30 lines 39-50];

granting means for granting, in response to securing high level performance

conditions, the request for the action [Holender, permitted to shared resources, col 33

lines 14-40].

Holender also discloses allocated to the various virtual paths, the choice of the

virtual path [Holender, col 11 lines 45-64];

However Holender does not explicitly detail selecting means for selecting the

logical route, wherein the logical route does not include resources for which exclusive

access has previously been granted

Raab discloses a virtual network with automatic configuration including high level

configuration request based on the matching policies for the end-station [Raab, col 14

lines 8-36]; topology mapping [Raab, col 6 lines 10-27] and determined whether there

are any other paths [Raab, col 16 lines 38-65];

Therefore, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to incorporate the technique of determined whether

there are any other paths over VLAn to optimize resources as taught by Raab into the

Holender's apparatus in order to utilize the VLAN topology mapping and automatically

configuration. Doing so would reduce time and cost to manage and maintenance a very

large network.

15.     As per claim 8, Holender-Raab disclose rejecting a subsequent request for an

action that requires operations on one of the resources in the set of resources blocking

on each of the virtual apths is made, col 3 lines 29-39].

16.     As per claim 9, Holender-Raab disclose reserving exclusive access to the set of

resources and the target resource [Holender, first layer with a set of logical links, col 42

lines 50-67].

17.     As per claim 10, Holender-Raab disclose generating a restricted session

identifier [Holender, VPI/VCI , col 7 lines 1-15]; associating the restricted session

identifier with the granted action [Holender, private gateway, col 7 lines 35-49];

transmitting the restricted session identifier to gateways responsible for the set of

resources, wherein gateways along the route permit exclusive access to the set of

resources in accordance with the restricted session identifier associated with an action

[Holender, a private gateway, col 7 lines 35-49].

18.    Claims 1-4 and 13-15 contain the similar limitations set forth of apparatus claims

7-10. Therefore, claims 1-4,13-15 are rejected for the similar rationale set forth in claims

7-10.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904.
The examiner can normally be reached on Monday-Thursday from 8:00AM- 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the
organization where this application or proceeding is assigned is 703-872-9306

Information regarding the status of an application may be obtained from the Patent
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*Thong Vu*
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